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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. *2013-842*

13 **ANDREW FRITZ SCHLEINITZ**
14 **126 Littrell Drive**
Medford, OR 97504

A C C U S A T I O N

15 **Registered Nurse License No. 771258**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about March 26, 2010, the Board of Registered Nursing issued Registered
24 Nurse License Number 771258 to Andrew Fritz Schleinitz (Respondent). Respondent has also
25 been known as Andrew F. Schleinitz and Andrew F. Schleintz. The Registered Nurse License
26 was in full force and effect at all times relevant to the charges brought herein and expired on
27 April 30, 2012, and has not been renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time.

STATUTORY PROVISIONS

6. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

- (a) Considering the denial of a license by the board under Section 480;
- or
- (b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 2761 of the Code states:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- (a) Unprofessional conduct, which includes, but is not limited to, the following:

.....

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

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8. Section 2762 of the Code states:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

COST RECOVERY

9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

DRUG

10. Alprazolam is a Schedule IV controlled substance as designated by Health and Safety Code section 11057, subdivision (d)(1) and is a dangerous drug under Code section 4022.

11. Carisoprodol has been reclassified on December 12, 2011, when the Drug Enforcement Agency ruled under the Controlled Substances Act that it is a Schedule IV controlled substance effective January 12, 2012, and has since been defined as a dangerous drug under Code section 4022.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Use Of a Controlled Substance in a Dangerous Manner)**

3 12. Respondent has subjected his license to disciplinary action under Code section
4 2762, subdivision (b), in that he used controlled substances to an extent or in a manner that was
5 potentially dangerous and injurious to himself and to others when he operated a motor vehicle
6 while under their influence. The circumstances are that minutes before midnight on August 21,
7 2010, Respondent was involved in a traffic collision in the area of 1st Street and Bush Street in
8 Santa Ana, California. Officers of the Santa Ana Police Department found Respondent in the
9 driver's seat of his damaged and stalled vehicle. Respondent appeared to have passed out with
10 his eyes open staring at the roof of his car. When asked to step out of his vehicle, Respondent
11 looked at the officers with a blank stare and was unable to respond to questions or commands.
12 Respondent's eyes were glazed over, red and watery and he had to be assisted out of his vehicle.
13 While Respondent was holding on to his car door for balance, his shorts fell down around his
14 ankles and he asked what was going on. During the interview, Respondent's speech was soft,
15 mumbled, and heavily slurred. Respondent's knees buckled and he fell to the ground.
16 Respondent was not able to perform the field sobriety tests and was taken to the Santa Ana
17 Detention Facility, where he consented to a blood test. Respondent admitted to taking four
18 Soma¹ muscle relaxers and a Xanax² anti-anxiety medication at 7:00 p.m. and that he knew he
19 should not have been driving a motor vehicle because the muscle relaxers made him sleepy and
20 unable to drive.

21 13. On September 28, 2011, in a criminal proceeding entitled *The People of the State*
22 *of California v. Andrew Fritz Schleinitz*, in Orange County Superior Court, Central Division,
23 Central Justice Center, case number 10CM11164, Respondent pled not guilty to violating

24 ¹ Soma tablets contain carisoprodol, approved by the Food and Drug Administration (FDA) for
25 use in painful musculoskeletal conditions on an acute basis.

26 <http://medicareinsights.com/2012/01/16/dea-classification-change-for-carisoprodol/> (January
27 2012)

28 ² Xanax tablets contain alprazolam which is a triazolo analog of the 1,4 benzodiazepine class of
central nervous system-active compounds, Pfizer Pharmacia & Upjohn Co.,
<http://labeling.pfizer.com/ShowLabeling.aspx?id=547> (August 2011)

1 Vehicle Code (VC) section 23152, subdivision (a), driving under the influence of alcohol (DUI),
2 Health and Safety Code (HSC) section 11550, subdivision (a), use and under the influence of
3 methadone, misdemeanors, and VC 22350, subdivision (a), unsafe speed, an infraction. On
4 November 30, 2011, Respondent failed to appear after a bench warrant was issued for his
5 mandatory appearance. Bail was set at \$10,000.00.

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Oregon - Out Of State Discipline)**

8 14. Respondent has subjected his license to disciplinary action under Code section
9 2761, subdivision (a)(4), in that his license to practice nursing in Oregon was disciplined by the
10 Oregon State Board of Nursing (Oregon Board) in a disciplinary action, which resulted in his
11 license being revoked. The circumstances are as follows:

12 15. On January 13, 2011, Respondent obtained licensure by endorsement as a
13 Registered Nurse in the State of Oregon and was issued license number 201140066RN.

14 16. On June 21, 2012, the Oregon Board took disciplinary action against
15 Respondent's registered nurse license in a matter entitled, *In the Matter of Andrew Schleinitz, RN*
16 *License No. 201140066RN*, by entering a Final Order By Default, reference No. 11-03220,
17 revoking Respondent's Registered Nurse license for practicing nursing while impaired, using
18 intoxicants to the extent injurious to himself or others, and failing to answer questions truthfully,
19 subject to petition for reconsideration or judicial review within 60 days, which had lapsed on
20 August 20, 2012.

21 17. The facts that led to the discipline are as follows. On May 7, 2011, Respondent
22 documented in a patient's Medication Administration Record that he administered morphine for
23 chest pain to the patient three times during the night shift from May 6 to May 7, 2011. On May
24 9, 2011, at the shift change an oncoming nurse questioned the patient about the effectiveness of
25 the medication. The patient said that he did not ask for, never received morphine, or if he did
26 receive morphine, it was given without his permission. On May 19, 2011, Respondent was
27 observed to be impaired at work and was subjected to a toxicology drug screen. On June 7, 2011,
28 Respondent signed an Interim Order by Consent removing himself from nursing practice pending

1 investigation and his employer notified the Oregon Board that he tested positive for
2 methamphetamine and methadone on a "for cause" drug screen.

3 18. On July 15, 2011, Respondent acknowledged to the Board staff his illegal use of
4 methamphetamines and the Oregon Board found that Respondent originally received treatment
5 for opiate addiction in California in March and April 2010, that he had a pending legal issue in
6 California for driving while intoxicated, and that he self-treated for opiate addiction by procuring
7 Subutex on the street and taking the medication without prescription. Respondent agreed to a
8 chemical dependency and mental health evaluation and expressed interest in treatment. The
9 Oregon Board also found that Respondent had failed to disclose in his endorsement application
10 his chemical substance addiction treatment and his unlawful use by answering "no" to disclosure
11 questions numbers 6 and 7 of the form. In fact, on July 8, 2010, Respondent was admitted for
12 treatment with a ten-year history of opiate addiction at a facility in Santa Ana, California and on
13 or around September 8, 2010, transferred to another treatment facility in Medford, Oregon.

14 19. On September 23, 2011, the Oregon Board received an evaluation from a
15 recovery center in Medford, Oregon that Respondent was diagnosed with opioid dependence and
16 sedative hypnotic/anxiolytic dependence and recommended for a medically monitored, high-
17 intensity inpatient residential treatment, with dual diagnosis capability. Respondent was further
18 recommended for mental health evaluation for depression and was determined being not able to
19 safely fulfill his duties as a Registered Nurse until he could demonstrate full sustained remission
20 by treatment completion and clean urinalysis. Respondent had not followed the treatment
21 recommendations. On December 21, 2011; January 3, 2012; and January 25, 2012, the Board
22 staff attempted to contact Respondent by phone to request an update on his treatment status.
23 Respondent failed to respond to the Board staff's request for additional information. On April 18,
24 2012, the Oregon Board voted to issue Respondent a Notice of Proposed Revocation of his
25 Registered Nurse License, which granted Respondent 20 days from mailing on April 23, 2012,
26 within which to request for a hearing. The grace period lapsed on May 13, 2012, hence, issuance
27 of the Final Order by Default.


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1 **PRAYER**

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 4 1. Revoking or suspending Registered Nurse License Number 771258, issued to
5 Andrew Fritz Schleinitz;
- 6 2. Ordering Andrew Fritz Schleinitz to pay the Board of Registered Nursing the
7 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
8 Professions Code section 125.3;
- 9 3. Taking such other and further action as deemed necessary and proper.
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12 DATED: MARCH 28, 2013

13 *for* 
14 LOUISE R. BAILEY, M.ED., RN
15 Executive Officer
16 Board of Registered Nursing
17 Department of Consumer Affairs
18 State of California
19 Complainant

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